

# Exhibit A

**C-4072-17-E**  
**275TH DISTRICT COURT, HIDALGO COUNTY, TEXAS**

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**CITATION**

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**THE STATE TEXAS**

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**NOTICE TO DEFENDANT:** You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) days after you were served this citation and petition, a default judgment may be taken against you.

**SCOTTSDALE INSURANCE COMPANY**  
**1 WEST NATIONWIDE BLVD., DSPF 78**  
**COLUMBUS, OH 43215**

**BY AND THROUGH:**  
**TEXAS COMMISSIONER OF INSURANCE**  
**333 GUADALUPE**  
**AUSTIN, TX 78701**

You are hereby commanded to appear by filing a written answer to the **PLAINTIFF'S ORIGINAL PETITION** at or before 10:00 o'clock a.m on the Monday next after the expiration of twenty (20) days after the date of service hereof, before the Honorable 275th District Court of Hidalgo County, Texas at the Courthouse, 100 North Closner, Edinburg, Texas 78539.

Said Petition was filed on this the 31st day of August, 2017 and a copy of same accompanies this citation. The file number and style of said suit being, **C-4072-17-E, Z&L ENTERPRISES D/B/A TIERRA SANTA GOLF CLUB VS. SCOTTSDALE INSURANCE COMPANY, SCOTTSDALE INDEMNITY COMPANY**

Said Petition was filed in said court by Attorney MARC E. GRAVELY, 425 SOLEDAD, STE. 600, SAN ANTONIO, TX 78205.

The nature of the demand is fully shown by a true and correct copy of the petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

**ISSUED AND GIVEN UNDER MY HAND AND SEAL** of said Court at Edinburg, Texas on this the 6th day of September, 2017.

**LAURA HINOJOSA, DISTRICT CLERK**  
**100 N. CLOSNER, EDINBURG, TEXAS**  
**HIDALGO COUNTY, TEXAS**

  
**KRYSTAL HIDALGO DEPUTY CLERK**



**CERTIFIED MAIL 9214 8901 0661 5400 0112 0182 89**

**CERTIFICATE OF RETURN  
UNDER RULES 103 T.R.C.P.**

This is to certify that on this the 6th day of September, 2017 I, Krystal Hidalgo, Deputy Clerk of the 275th District Court of Hidalgo County, Texas mailed to the defendant in Cause Number C-4072-17-E, Z&L Enterprises d/b/a Tierra Santa Golf Club VS. Scottsdale Insurance Company, Scottsdale Indemnity Company a copy of the citation along with a copy of the petition by certified mail return receipt requested. Return receipt was returned on the \_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_ (or unserved for the reason on the certificate return) \_\_\_\_\_.

**GIVEN UNDER MY HAND AND SEAL OF SAID COURT**, at office in Edinburg, Texas on this the 6th day of September, 2017.

**LAURA HINOJOSA, DISTRICT CLERK  
HIDALGO COUNTY, TEXAS**

\_\_\_\_\_  
**KRYSTAL HIDALGO, DEPUTY CLERK**

**COMPLETE IF YOU ARE PERSON OTHER THAN A SHERIFF,  
CONSTABLE OR CLERK OF THE COURT**

In accordance to Rule 107, the officer or authorized person who serves or attempts to serve a citation must sign the return. If the return is signed by a person other than a sheriff, constable or the clerk of the court, the return must either be verified or be signed under the penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

“My name is \_\_\_\_\_, my date of birth is \_\_\_\_\_ and the address is \_\_\_\_\_, and I declare under penalty of perjury that the foregoing is true and correct.

**EXECUTED** in \_\_\_\_\_ County, State of Texas, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
**Declarant”**

\_\_\_\_\_  
**If Certified by the Supreme Court of Texas  
Date of Expiration / SCH Number**



## Notice of Service of Process

null / ALL  
Transmittal Number: 17120921  
Date Processed: 09/11/2017

**Primary Contact:** Service Process Team 3-11-309  
Nationwide Mutual Insurance Company  
Three Nationwide Plaza  
Columbus, OH 43215

**Electronic copy provided to:** Joshua Schonauer  
Kevin Jones  
Cassandra Struble

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**Entity:** Scottsdale Indemnity Company  
Entity ID Number 3286057

**Entity Served:** Scottsdale Indemnity Company

**Title of Action:** Z&L Enterprises d/b/a Tierra Santa Golf Club vs. Scottsdale Insurance Company,  
and Scottsdale Indemnity Company

**Document(s) Type:** Citation/Petition

**Nature of Action:** Contract

**Court/Agency:** Hidalgo County District Court, Texas

**Case/Reference No:** C-4072-17-E

**Jurisdiction Served:** Texas

**Date Served on CSC:** 09/11/2017

**Answer or Appearance Due:** 10:00 am Monday next following the expiration of 20 days after service

**Originally Served On:** CSC

**How Served:** Certified Mail

**Sender Information:** Gravely & Pearson, L.L.P.  
N/A

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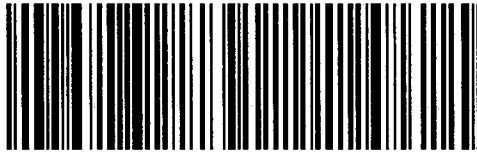
Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

**To avoid potential delay, please do not send your response to CSC**

251 Little Falls Drive, Wilmington, Delaware 19808-1674 (888) 690-2882 | [sop@cscglobal.com](mailto:sop@cscglobal.com)



LAURA HINOJOSA  
HIDALGO COUNTY DISTRICT CLERK  
P.O. BOX 87  
EDINBURG, TX 78540-0087



9214 8901 0661 5400 0112 0183 71

**RETURN RECEIPT (ELECTRONIC)**

**C-4072-17-E**

SCOTTSDALE INDEMNITY COMPANY  
REGISTERED AGENT, C/O CORPORATION SERVICE  
COMPANY  
211 EAST 7TH STREET, STE. 620  
AUSTIN, TX 78701

**RETURN SERVICE  
REQUESTED**

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CUT / FOLD HERE

6"x9" ENVELOPE

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CUT / FOLD HERE

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CUT / FOLD HERE

COPY

**C-4072-17-E**  
**275TH DISTRICT COURT, HIDALGO COUNTY, TEXAS**

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**CITATION**

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**THE STATE TEXAS**

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**REGISTERED AGENT, C/O CORPORATION SERVICE COMPANY**  
**211 EAST 7TH STREET, STE. 620**  
**AUSTIN, TX 78701**

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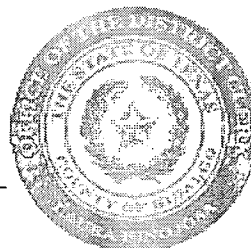
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\_\_\_\_\_  
**Declarant"**

\_\_\_\_\_  
**If Certified by the Supreme Court of Texas  
Date of Expiration / SCH Number**

CAUSE NO. C-4072-17-E

COPY

Z&L ENTERPRISES d/b/a  
TIERRA SANTA GOLF CLUB

v.

SCOTTSDALE INSURANCE COMPANY,  
and SCOTTSDALE INDEMNITY  
COMPANY

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IN THE DISTRICT COURT

275 JUDICIAL DISTRICT

HIDALGO COUNTY, TEXAS

**PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff, Z&L Enterprises d/b/a Tierra Santa Golf Club, and files this Original Petition against Defendants Scottsdale Insurance Company and Scottsdale Indemnity Company ("Scottsdale" or "Insurance Defendant") and for causes of action would respectfully show the Court the following:

**I. DISCOVERY LEVEL**

Pursuant to rule 190 of the Texas Rules of Civil Procedure, Plaintiff intends to conduct discovery under Level 3.

**II. VENUE**

Venue is appropriate in Hidalgo County, Texas because all or part of the conduct giving rise to the causes of action were committed in Hidalgo County, Texas and the property which is the subject of this suit are located in Hidalgo County, Texas.

**III. PARTIES**

Plaintiff is a resident of Hidalgo County. Plaintiff owns the property made subject of this suit which is located in Hidalgo County, Texas.



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Defendant Scottsdale is in the business of insurance in the State of Texas. The insurance business done by Scottsdale in Texas includes, but is not limited to, the following:

- The making and issuing of contracts of insurance with the Plaintiff;
- The taking or receiving of application for insurance, including the Plaintiff's application for insurance;
- The receiving or collection of premiums, commissions, membership fees, assessments, dues or other consideration for any insurance or any part thereof, including any such consideration or payments from the Plaintiff; and
- The issuance or delivery of contracts of insurance to residents of this state or a person authorized to do business in this state, including the Plaintiff.

Defendant, Scottsdale Insurance Company is a foreign surplus lines insurance carrier, organized and existing under the laws of the State of Iowa and authorized to conduct business in Texas, whose home office/principal business office is 1 West Nationwide Blvd. Dspf 78, Columbus, Ohio 43215 **and may be served with process by serving the Texas Commissioner of Insurance, 333 Guadalupe, Austin, Texas 78701**, as its agent for service as required by Texas Insurance Code § 804.106.

Defendant, Scottsdale Indemnity Company **may be served with process by serving its registered agent c/o Corporation Service Company, 211 East 7<sup>th</sup> Street, Suite 620 Austin, Texas 78701 by certified mail, return receipt requested.**

**IV. NATURE OF THE CASE; RELIEF SOUGHT**

This is a first-party insurance case stemming from extensive damage to Plaintiff's property. Plaintiff seeks damages for common law bad faith, breach of contract and violations of the Texas Insurance Code. Plaintiff also seeks attorney's fees, statutory penalties, costs of court and pre- and post-judgment interest. As required by Rule 47 of the Texas Rules of Civil Procedure, Plaintiff seeks monetary relief over \$200,000 but not more than \$1,000,000.

**C-4072-17-E****V. BACKGROUND FACTS**

Plaintiff owns a golf course with a restaurant known as Tierra Santa Golf Club located at 702 W. Expressway 83, Suite D in Weslaco, Texas 78596 (the "Property"). The Property is covered by a policy, numbered CPS2214753, of insurance which the Insurance Defendant sold to Plaintiff (the "Policy"). The Policy covered the Plaintiff's property against loss by hail, wind and water damage, among other perils.

As a consequence of a storm, the Plaintiff's property sustained extensive damage. Plaintiff has performed all conditions precedent to his recovery under the Policy. Plaintiff gave timely notice to the carrier. The carrier assigned the claim to an adjuster to investigate, report on and adjust the loss. Plaintiff provided information to the adjuster and opportunities for the adjuster to inspect the Property. The Insurance Defendant has failed and refused to pay Plaintiff in accordance with its promises under the Policy.

Plaintiff has suffered property damage which has not been paid, even though the amounts are well-established and have been provided to the Insurance Defendant.

The Insurance Defendant has failed to make an attempt to settle Plaintiff's claim in a fair manner, although its liability to the Plaintiff under the Policy is without dispute. This conduct is a violation of Tex. Ins. Code Sec. 541.060(a)(2)(A).

The Insurance Defendant has failed to explain the reasons for its offer of an inadequate compensation. The Insurance Defendant has failed to offer Plaintiff adequate compensation without any explanation why full payment was not being made. The Insurance Defendant did not communicate that any future settlements or payments would be forthcoming to pay the entire losses covered under the Policy. This conduct violates Tex. Ins. Code Sec. 541.060(a)(3).

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The Insurance Defendant has failed to affirm or deny coverage within a reasonable time. Plaintiff did not receive timely indication of acceptance or rejection regarding the full and entire claim in writing from the Insurance Defendant in a timely manner. This conduct is a violation of Tex. Ins. Code Sec. 541.060(a)(4).

The Insurance Defendant refused to fully compensate Plaintiff under the terms of the Policy even though the Insurance Defendant failed to conduct a reasonable investigation. The Insurance Defendant and the adjuster performed a result-oriented investigation of Plaintiff's claim which resulted in an unfair, biased and inequitable evaluation of Plaintiff's losses. This conduct is a violation of Tex. Ins. Code Sec. 541.060(a)(7).

The Insurance Defendant has failed to meet their obligations under the Texas Insurance Code regarding timely acknowledging Plaintiff's claim, beginning investigation of Plaintiff's claim, and requesting all information reasonably necessary to investigate Plaintiff's claim within the time period mandated by statute. This conduct is a violation of Tex. Ins. Code Sec. 542.055.

The Insurance Defendant failed to accept or deny Plaintiff's full and entire claim within the time period mandated by statute. This conduct is a violation of Tex. Ins. Code Sec. 542.056.

The Insurance Defendant forced Plaintiff to file this suit by offering substantially less than the amount of covered damages. This conduct violates Texas Insurance Code § 542.003(b)(5) and 28 TAC § 21.203(5).

The Insurance Defendant failed to meet its obligation under the Texas Insurance Code regarding payment of the claim without delay. This conduct is a violation of Tex. Ins. Code Sec. 542.058.

**C-4072-17-E****VI. CLAIMS AGAINST SCOTTSDALE INSURANCE COMPANY  
AND SCOTTSDALE INDEMNITY COMPANY**

**Declaratory Judgment.** Plaintiff re-alleges the foregoing paragraphs. Pursuant to the Texas Declaratory Judgment Act, Plaintiff is entitled to a declaration that the Policy provides coverage for the cost to repair the damaged property, less only a deductible, among other things. In the alternative, Plaintiff asserts that the Policy is ambiguous and must be interpreted in favor of coverage and against the Insurance Defendant.

**Breach of Contract.** Plaintiff re-alleges the foregoing paragraphs. The acts and omissions of the Insurance Defendant and its agents constitute a breach and/or anticipatory breach of the Insurance Defendant's contract with Plaintiff. Plaintiff has satisfied all conditions precedent to the fulfillment of its contractual demands. Accordingly, additionally or in the alternative, Plaintiff brings an action for breach of contract against the Insurance Defendant pursuant to Texas statutory and common law, including Chapter 38 of the Texas Civil Practice and Remedies Code, and seek all of its damages for such breach, including actual damages, consequential damages, attorneys' fees, prejudgment interest, other litigation expenses and costs of court.

**Violations of the Texas Insurance Code.** Plaintiff re-alleges the foregoing paragraphs. At all pertinent times, the Insurance Defendant was engaged in the business of insurance as defined by the Texas Insurance Code. The acts and omissions of the Insurance Defendant and its agents constitute one or more violations of the Texas Insurance Code. More specifically, the Insurance Defendant has, among other violations, violated the following provisions of the Code:

1. Insurance Code chapter 542, the Prompt Payment Act.
2. Insurance Code § 542.003(b)(5) and 28 TAC § 21.203(5).
3. Insurance Code chapter 541, section 541.060 by, among other things:

**C-4072-17-E**

- misrepresenting one or more material facts and/or policy provisions relating to coverage;
- failing to attempt in good faith to effectuate a prompt, fair, and equitable settlement of a claim with respect to which their liability has become reasonably clear;
- failing to attempt in good faith to effectuate a prompt, fair, and equitable settlement of a claim under one portion of a policy with respect to which liability has become reasonably clear in order to influence Plaintiff to settle his claim with respect to another portion of the policy;
- failing to promptly provide a reasonable explanation of the basis in law or fact for the denial of Plaintiff's claims;
- refusing to affirm or deny coverage within a reasonable time; and/or
- refusing to pay Plaintiff's claim without conducting a reasonable investigation.

Where statements were made by the Insurance Defendant, Plaintiff reasonably relied upon them. As a result of the foregoing conduct, which was and is the producing cause(s) of injury and damage to Plaintiff, Plaintiff has suffered damages including, without limitation, actual damages, economic damages, and consequential damages. Moreover, one or more of the foregoing acts or omissions were "knowingly" made, entitling Plaintiff to seek treble damages pursuant to the Insurance Code. The Insurance Defendant has also violated the Prompt Payment Act, and Plaintiff seeks 18% damages as a penalty, plus reasonable and necessary attorney's fees incurred as a result of these violations.

**"Common Law Bad Faith."** Plaintiff re-alleges the foregoing paragraphs. The Insurance Defendant has refused to pay or delayed in paying a claim after liability has become reasonably clear. The Insurance Defendant has refused to pay, delayed in paying or offered grossly inadequate and unconscionable sums to settle the claims submitted by Plaintiff. This constitutes a breach of its common law duty of good faith and fair dealing' *i.e.*, it is acting in "bad faith."

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Moreover, the Insurance Defendant has “investigated” and “adjusted” Plaintiff’s claim in a malicious, intentional, fraudulent and/or grossly negligent fashion, and Plaintiff is entitled to extra-contractual damages, including exemplary damages. Plaintiff has sustained serious damage to the Property as a result of the Insurance Defendant’s refusal to honor the Policy. The Insurance Defendant is well aware that its actions involve an extreme risk that Plaintiff will suffer financial damage as a result of its refusal to honor its obligations, yet it is consciously indifferent to Plaintiff’s rights. Plaintiff is entitled to recover its actual damages, consequential damages, punitive damages, and pre- and post-judgment interest.

**VII. CONDITIONS PRECEDENT**

All conditions precedent for Plaintiff to recover under the Policy has been or will be met.

**VIII. JURY DEMAND**

Plaintiff requests that a jury be convened to try the factual issues in this action.

**IX. REQUEST FOR DISCLOSURE**

Pursuant to the Texas Rules of Civil Procedure 194, Plaintiff requests that each Defendant provide the information required in a Request for Disclosure.

**X. REQUEST FOR PRODUCTION TO SCOTTSDALE INSURANCE COMPANY  
AND SCOTTSDALE INDEMNITY COMPANY**

Produce Scottsdale’s complete claim file for Plaintiff’s property relating to or arising out of any damage which occurred.

Produce all emails, notes, and other forms of communication between Scottsdale, its agents, adjusters, employees, or representatives relating to, mentioning, concerning or evidencing the Plaintiff’s property which is the subject of this suit.

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**XI. PRAYER**

WHEREFORE, Plaintiff seeks the following relief:

A. The Court's declaration that the Policy provides coverage for the damage to the Property, less only a deductible;

B. Alternatively, a ruling that the Policy is ambiguous and must be interpreted in favor of coverage and in favor of Plaintiff;

C. Damages against the Insurance Defendant for breach of contract, including actual damages, consequential damages, attorneys' fees, pre- and post-judgment interest, other litigation expenses and costs of court;

D. Penalty in the amount of 18% damages for violations of the Prompt Payment Act;

E. Damages against the Insurance Defendant, jointly and severally, for other violations of the Texas Insurance Code, including without limitation economic damages, actual damages, consequential damages, treble damages, and reasonable and necessary attorneys' fees;

G. Damages against the Insurance Defendant, jointly and severally, for breach of the duty of good faith and fair dealing, including actual damages, consequential damages, punitive damages and pre- and post-judgment interest; and

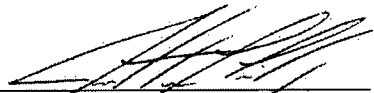
H. Plaintiff also seeks all other financial relief and rulings to which it may be legally or equitably entitled.

**C-4072-17-E**

Respectfully submitted,

GRAVELY & PEARSON, L.L.P.  
425 Soledad, Suite 600  
San Antonio, Texas 78205  
Telephone: (210) 472-1111  
Facsimile: (210) 472-1110

By:

  
\_\_\_\_\_  
Marc E. Gravely  
State Bar No. 00787582  
[mgravely@gplawfirm.com](mailto:mgravely@gplawfirm.com)  
Jonathan C. Lisenby  
State Bar No. 24072889  
[jlisenby@gplawfirm.com](mailto:jlisenby@gplawfirm.com)

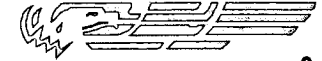
**ATTORNEYS FOR PLAINTIFF**



**CERTIFIED MAIL**



U.S. POSTAGE >>> PITNEY BOWES



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